

## **808 KAR 12:021. Licensing and registration.**

RELATES TO: KRS 286.8-010, 286.8-020, 286.8-030(1), 286.8-036, 286.8-060, 286.8-070, 286.8-080, 286.8-090(1), 286.8-260, 286.8-290

STATUTORY AUTHORITY: KRS 286.8-032, 286.8-034, 286.8-100, 286.8-140(1), 286.8-140(4), 286.8-255, 286.8-285

NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.8-140(1) authorizes the commissioner to promulgate administrative regulations necessary to accomplish the basic purposes of KRS Chapter 286.8. This administrative regulation establishes procedures for licensure, registration, and electronic submission of filings and fees with the nationwide mortgage licensing system operated by the State Regulatory Registry, LLC.

Section 1. Licensure as a Mortgage Loan Company or Mortgage Loan Broker. (1) A person applying for licensure as a mortgage loan company or mortgage loan broker shall submit the following:

(a) A completed NMLS Company Form as available online at <http://mortgage.nationwidelicensingsystem.org>;

(b) A completed NMLS Individual Form as available online at <http://mortgage.nationwidelicensingsystem.org> for each control person designated on the direct owners and executive officers section of the NMLS Company Form;

(c) A reviewed or audited financial statement prepared by a certified public accountant in accordance with generally accepted accounting principles dated the previous year end to the date of submission of the NMLS Company Form. A financial statement shall include a balance sheet, income statement, statement of cash flows, and all relevant notes. If applicant is a start-up company, an initial statement of condition and a pro-forma income statement shall be submitted instead of the financial statement;

(d) An original bond furnished by a surety company authorized to conduct business in Kentucky. The name of the principal insured on the bond shall match exactly the full legal name of applicant. The bond shall be submitted on the following form in an amount not less than the amount required by KRS 286.8-060(1):

1. For a mortgage loan company, Form ML-1, Surety Bond for Mortgage Loan Company; or
2. For a mortgage loan broker, Form ML-2, Surety Bond for Mortgage Loan Broker;

(e) A certified copy of the following:

1. If a corporation, the Corporate Charter or Articles of Incorporation and Bylaws;
2. If a limited liability company, the Articles of Organization and Operating Agreement; or
3. If a partnership of any form, the Partnership Agreement;

(f) A Certificate of Authority or a Certificate of Good Standing issued by the Kentucky Secretary of State dated not more than sixty (60) days prior to the submission of the NMLS Company Form;

(g) If applicant will be operating in Kentucky under a name other than its legal name, a file-stamped copy of the Certificate of Assumed Business Name issued by the Kentucky Secretary of State;

(h) If required to do so by KRS 286.8-032(6), documentation that a managing principal designated by applicant has successfully completed the educational training set forth in KRS 286.8-032(6);

(i) If the principal office will be located in a residence, a completed Form ML-6, Disclosure of Location at a Residence Form; and

(j) The fees set forth in KRS 286.8-034(1).

(2) A person applying for renewal of a mortgage loan company or mortgage loan broker li-

cense pursuant to KRS 286.8-034(3) and prior to December 1 shall submit the following:

(a) The required updates and attestation ensuring that all information in the person's record maintained by the nationwide mortgage licensing system operated by the State Regulatory Registry, LLC is correct as available online at <http://mortgage.nationwidelicensingsystem.org>;

(b) A completed Form ML-5, Annual Mortgage Activity Report; and

(c) The fee set forth in KRS 286.8-034(3).

(3) A person applying for renewal of a mortgage loan company or mortgage loan broker license through reinstatement pursuant to KRS 286.8-034(4) shall submit the following:

(a) The required updates and attestation ensuring that all information in the person's record maintained by the nationwide mortgage licensing system operated by the State Regulatory Registry, LLC is correct as available online at <http://mortgage.nationwidelicensingsystem.org>;

(b) A completed Form ML-5, Annual Mortgage Activity Report; and

(c) The fees set forth in KRS 286.8-034(3) and 286.8-034(4).

Section 2. Registration of a Branch. (1) A branch shall not be approved unless it is controlled, managed, and supervised by the applicant's principal office.

(2) A person applying for registration of a branch shall submit the following:

(a) A completed NMLS Branch Form as available online at <http://mortgage.nationwidelicensingsystem.org>;

(b) A copy of the lease or deed for the branch;

(c) A completed Form ML-7, Branch Authorization Form;

(d) If the branch will be located in a residence, a Form ML-6, Disclosure of Location at a Residence Form; and

(e) The fee set forth in KRS 286.8-034(1)(b).

(3) A person applying for renewal of a branch registration pursuant to KRS 286.8-034(3) and prior to December 1 shall submit the following:

(a) The required updates and attestation ensuring that all information in the person's record maintained by the nationwide mortgage licensing system operated by the State Regulatory Registry, LLC is correct as available online at <http://mortgage.nationwidelicensingsystem.org>;

(b) A completed Form ML-5, Annual Mortgage Activity Report; and

(c) The fee set forth in KRS 286.8-034(3).

(4) A person applying for renewal of a branch registration through reinstatement pursuant to KRS 286.8-034(4) shall submit the following:

(a) The required updates and attestation ensuring that all information in the person's record maintained by the nationwide mortgage licensing system operated by the State Regulatory Registry, LLC is correct as available online at <http://mortgage.nationwidelicensingsystem.org>;

(b) A completed Form ML-5, Annual Mortgage Activity Report; and

(c) The fees set forth in KRS 286.8-034(3) and (4).

Section 3. Registration of a Mortgage Loan Originator. (1) A person applying for registration as a mortgage loan originator pursuant to KRS 286.8-255(2) shall submit the following:

(a) A completed NMLS Individual Form as available online at <http://mortgage.nationwidelicensingsystem.org>;

(b) A request to submit a Federal Bureau of Investigation background records check and a credit report to the department;

(c) Certification that applicant has successfully completed all education and testing required by KRS 286.8-255; and

(d) The fee set forth in KRS 286.8-255(2)(b).

(2) A person applying for renewal of a mortgage loan originator registration pursuant to KRS

286.8-255(4) shall submit the following:

(a) The required updates and attestation ensuring that all information in the person's record maintained by the nationwide mortgage licensing system operated by the State Regulatory Registry, LLC is correct as available online at <http://mortgage.nationwidelicensingsystem.org>;

(b) A request to submit a Federal Bureau of Investigation background records check and a credit report to the department;

(c) Certification that applicant has successfully completed all education and testing required by KRS 286.8-255 and 286.8-260; and

(d) The fee set forth in KRS 286.8-255(4).

(3) A person applying for renewal of a mortgage loan originator registration through reinstatement pursuant to KRS 286.8-255(5) shall submit the following:

(a) The required updates and attestation ensuring that all information in the person's record maintained by the nationwide mortgage licensing system operated by the State Regulatory Registry, LLC is correct as available online at <http://mortgage.nationwidelicensingsystem.org>;

(b) Certification that applicant has successfully completed all education and testing required by KRS 286.8-255 and 286.8-260;

(c) A request to submit a Federal Bureau of Investigation background records check and a credit report to the department; and

(d) The fees set forth in KRS 286.8-255(4) and 286.8-255(5).

(4) The cost of any Federal Bureau of Investigation background records check or credit report required by this section shall be borne by the applicant.

Section 4. Mortgage Loan Originator Bond Requirements. In addition to the requirements set forth in this administrative regulation, an applicant applying for registration, renewal, or renewal through reinstatement as a mortgage loan originator shall provide proof that the mortgage loan originator holds or is covered by a bond furnished by a surety company authorized to conduct business in Kentucky. If the mortgage loan originator is procuring his or her own bond, the bond shall be submitted on the applicable Surety Bond for Individual Mortgage Loan Originators form and in an amount determined by annual loan origination as follows:

(1) If the annual loan volume of the applicant is less than \$10,000,000, the surety bond shall be in an amount not less than \$15,000 and the applicant shall submit Form ML-3, Surety Bond for Individual Mortgage Loan Originators with an Annual Loan Origination Volume of Less than \$10,000,000; or

(2) If the annual loan volume of the applicant is \$10,000,000 or more, the surety bond shall be in an amount not less than \$20,000 and the applicant shall submit Form ML-4, Surety Bond for Individual Mortgage Loan Originators with an Annual Loan Origination Volume of \$10,000,000 or Greater.

Section 5. Factors Used to Determine Approval or Disapproval of an Application. (1) An applicant seeking registration, renewal, or renewal through reinstatement under KRS 286.8-255 shall demonstrate the financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the applicant will operate honestly, fairly, lawfully, and efficiently within the purposes of the subtitle.

(2) Each applicant shall authorize the commissioner to obtain a credit report containing a credit score to aid in making this determination.

(3) The applicant shall have met the requirement of financial responsibility if he or she possessed a credit score of 600 or higher at the time of application. If the applicant possesses a credit score of less than 600, the commissioner may review the applicant's credit report for the following information to make this determination:

(a) Any outstanding judgments, excluding judgments arising solely from medical expenses for the applicant or an immediate family member;

(b) Any outstanding tax liens or other governmental liens;

(c) Any foreclosures occurring within five (5) years of the date of application or renewal;

(d) Any bankruptcies occurring within five (5) years of the date of application or renewal; and

(e) Any delinquent accounts occurring within five (5) years of the date of application or renewal.

(4) The factors of character and general fitness shall be determined by the commissioner after review of all relevant information, including information shown on the applicant's credit report, the applicant's criminal history, and any administrative or civil actions taken against the applicant.

Section 6. Electronic Submission of Filings and Fees through the Nationwide Mortgage Licensing System Operated by the State Regulatory Registry, LLC. (1) A person applying for licensure, registration, renewal, or renewal through reinstatement pursuant to Sections 1, 2, 3, and 4 of this administrative regulation shall electronically submit the following with the State Regulatory Registry, LLC, at <http://www.stateregulatoryregistry.org/NMLS>, as part of the nationwide mortgage licensing system:

(a) All forms, updates, attestations, and requests required by Sections 1, 2, 3, and 4 of this administrative regulation, as applicable;

(b) Fingerprints and any other information or authorizations necessary to obtain the background records checks and credit reports referenced in Section 3 of this administrative regulation; and

(c) All fees referenced in this administrative regulation.

(2) All forms, documentation, fees, or information that are not available for electronic submission directly through the nationwide mortgage licensing system operated by the State Regulatory Registry, LLC shall be submitted directly to the department.

(3) Any fees assessed by the State Regulatory Registry, LLC, to process the electronic submissions referenced in subsection (1) of this section shall be borne by the applicant.

Section 7. Abandoned Applications. If any applicant fails to provide or respond to a request for additional information within ninety (90) days of submission to the department, the application shall be abandoned. Any applicant seeking licensing or registration after its application has been abandoned shall reapply and resubmit the required information.

Section 8. Inactive Status for Members of the Armed Forces. (1) A member of the Armed Forces who holds a license or registration in good standing under this administrative regulation may request that the commissioner place the license or registration in inactive status during the period of time that the member is mobilized or deployed, and for a period of six (6) months following termination of the mobilization or deployment.

(2) To request inactive status for a license or registration, a person shall complete Form ML-8, Request for Inactive Status Due to Military Service and submit it along with proof of mobilization or deployment to the commissioner for approval.

(3) A person whose license or registration has been placed in inactive status shall not engage in the activity requiring the license or registration under KRS Chapter 286.8.

(4) The fee set forth in KRS 286.8-255(4) shall not accrue against any person whose license or registration is in inactive status.

(5) A person may reactivate an inactive license or registration by submitting a written request to the commissioner and attaching proof of compliance with KRS 286.8-255(10) and

286.8-260, if applicable. Upon receipt of a written request and confirmation of compliance with KRS 286.8-255(10) and 286.8-260, the commissioner shall issue an approval for reactivation.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) Form ML-1, "Surety Bond for Mortgage Loan Company", updated 03/2015;
- (b) Form ML-2, "Surety Bond for Mortgage Loan Broker", updated 03/2015;
- (c) Form ML-3, "Surety Bond for Individual Mortgage Loan Originators with an Annual Loan Origination Volume of Less than \$10,000,000", updated 03/2015;
- (d) Form ML-4, "Surety Bond for Individual Mortgage Loan Originators with an Annual Loan Origination Volume of \$10,000,000 or Greater", updated 03/2015;
- (e) Form ML-5, "Annual Mortgage Activity Report", updated 03/2015;
- (f) Form ML-6, "Disclosure of Location at a Residence Form", updated 03/2015;
- (g) Form ML-7, "Branch Authorization Form", updated 03/2015; and
- (h) Form ML-8, "Request for Inactive Status Due to Military Service", updated 03/2015.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5 p.m. This material may also be obtained from the department's Web site at <http://www.kfi.ky.gov>. (37 Ky.R. 883; Am. 1198; eff. 12-3-2010; 41 Ky.R. 2638; 42 Ky.R. 688; eff. 9-22-2015; 43 Ky.R. 110; eff. 11-4-2016.)